

SENATE BILL 2421
By McNally

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 22, Part 1 and Title 39, Chapter 17, Part 4, relative to controlled substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-418(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) Except as provided in subsections (d) and (e), a violation of this section is a Class A misdemeanor. Any person or persons violating this section shall, upon conviction thereof, for the first offense be confined in the county jail or workhouse for not less than forty-eight (48) hours nor more than eleven (11) months and twenty-nine (29) days. For conviction on the second offense, the person or persons shall be confined in the county jail or workhouse for not less than forty-five (45) days nor more than eleven (11) months and twenty-nine (29) days. The provisions of this section constitute an enhanced sentence, not a new offense.

SECTION 2. Tennessee Code Annotated, Section 39-17-418, is amended by adding a new subsection thereto, as follows:

(g) In addition to the other penalties provided in this section, any person convicted of violating this section for possession of a controlled substance may be required to undergo evaluation by a mental health professional to determine if such person is addicted to alcohol or controlled substances. Persons addicted to alcohol or controlled substances may be required to attend a drug or alcohol rehabilitation or treatment center.

SECTION 3. Tennessee Code Annotated, Section 16-22-109(c), is amended by deleting the subsection in its entirety and substituting instead the following:

(c) This assessment shall be subject to the provisions of § 8-21-401(a)(6) and shall be in addition to all other taxes, costs, and fines. The first five dollars (\$5.00) of each such assessment shall be paid to the clerks of the court imposing assessment, who shall transfer it to the state treasurer, who shall credit it to the general fund and earmark it for use by the Tennessee department of finance and administration, office of criminal justice programs for funding drug court treatment program administration and funding such grant awards as are made by the department of finance and administration, office of criminal justice programs. The remainder of such assessments shall be deposited by the clerk of the collecting court into a dedicated county fund. Such fund shall not revert to the county general fund at the end of the fiscal year but shall remain for the purposes set out in this section. Any such money shall be used by the county exclusively for the creation and maintenance of state drug court treatment programs as defined in § 16-22-104 and the costs and expenses associated with mandatory minimum sentencing of drug offenders as defined in § 39-17-418(c). In the event no drug court treatment program operates in a county, the remainder of the funds from such county shall be remitted annually in full to the state to be placed in the "drug court treatment program resources fund" to be administered by the department of finance and administration, office of the criminal justice programs in accordance with § 16-22-110. The comptroller's regular audit of a local government shall also include the dedicated county fund established by this section.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.